

## REMARKS

Applicant appreciates the Examiner's thorough review and consideration of the subject application. The final Office Action of August 9, 2005 has been received and its contents carefully noted.

Claims 32-38 and 43-49 are currently pending in the application. Claims 40-42 have been canceled and claim 39 was previously canceled. No new matter has been added. Reconsideration and withdrawal of all pending rejections in view of the above amendments and following remarks is respectfully requested.

### ***Election***

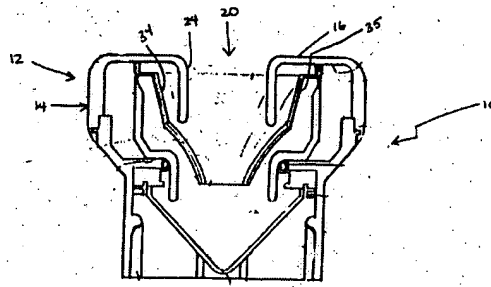
The Examiner has asserted that new claims 40-42 are directed to a species different from that of the previously examined claims. In this regard, the Examiner has withdrawn from consideration claims 40-42 as having been constructively elected by original presentation. Accordingly, in order to expedite prosecution, Applicant has canceled claims 40-42.

### ***Rejections Under 35 U.S.C. § 102***

The Examiner has rejected claims 32-36, 38, 43-47, and 49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,752,938, issued to Flatland et al., (hereinafter Flatland). The Examiner alleges that Flatland discloses a wall protector extending into the interior of the upper portion body portion, concluding that this extension into the interior places the wall protector between the throughbore and the valve seal. Applicant respectfully traverses this rejection for at least the following reasons.

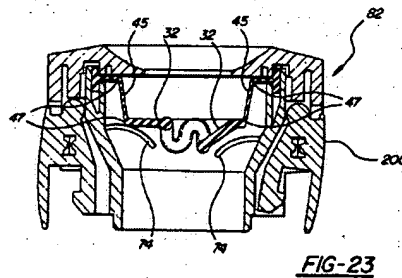
Applicant asserts that Flatland is insufficient as an anticipatory reference because it fails to teach each and every element of the presently claimed invention. Claim 32 recites, *inter alia*, that the cylindrical wall protector is integrally formed with the upper surface at the throughbore and is located between the throughbore and upper seal wall extending *substantially* into the upper seal portion; and claim 43 recites, *inter alia*, a cylindrical wall protector located between the throughbore and upper seal wall and extending *substantially* into said upper seal portion.

For clarification, Figure 3 from the Applicant's specification has been reproduced below illustrating an embodiment of a seal assembly 10 of the claimed invention. The numeral designations not pertinent to the argument have been deleted.



With reference to the above Figure, a throughbore 20 is provided at the center of the upper surface 16 where the throughbore extends completely through the seal assembly 10. The cylindrical wall member 24 is integrally formed with the upper surface 16 at the throughbore 20 to project inwardly into the interior of the upper body portion 12. Moreover, the cylindrical wall protector 24 is located between the throughbore 20 and the upper seal wall which includes the upper inner seal wall 34 and the upper outer seal wall 35.

For clarification, Figure 23 of Flatland has been reproduced below. Unlike the claimed invention, Flatland only discloses a seal assembly having a wall 45 that meets the seal membrane 32. As can be seen in Figure 23 of Flatland, wall 45 is not integrally formed with the upper surface at the throughbore as in the claimed invention.



In this regard, Flatland does not disclose, *inter alia*, a cylindrical wall protector integrally formed with the upper surface that projects inwardly into an interior portion where cylindrical wall protector is located between the throughbore and upper seal wall and extending substantially into the said upper seal. Additionally, nowhere does Flatland teach or suggest the feature of a cylindrical wall member integrally formed with the upper surface at the throughbore.

Therefore, Applicant asserts that Flatland is insufficient as an anticipatory reference because it fails to teach or suggest a cylindrical wall protector integrally formed with the upper surface at the throughbore.

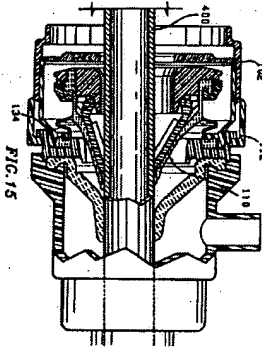
Moreover, claim 32 recites, *inter alia*, a cannula receiving opening adapted to mount the seal assembly on the cannula; claim 43 recites, *inter alia*, a cannula connection that connects the seal assembly to the cannula. On the contrary, Flatland is a trocar converter and does not disclose any such opening for receiving a cannula.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection of claims 32-36, 38, 43-47, and 49. Since Flatland fails to teach or suggest all the features of the claimed invention, Applicant respectfully submits that independent claims 32 and 43, and all the claims that depend therefrom, are allowable.

Next, the Examiner has rejected claims 32-37 and 43-48 as being anticipated by U.S. Patent No. 5,603,702, issued to Smith et al., (hereinafter Smith). Applicant respectfully traverses this rejection for at least the following reasons.

As discussed above, claim 32 recites, *inter alia*, that the cylindrical wall protector is integrally formed with the upper surface at the throughbore and is located between the throughbore and upper seal wall extending *substantially* into the upper seal portion; and claim 43 recites, *inter alia*, a cylindrical wall protector located between the throughbore and upper seal wall and extending *substantially* into said upper seal portion.

Applicant asserts that Smith is insufficient as an anticipatory reference because it fails to teach or suggest each and every element of the claimed invention. For clarification, Figure 15 of the Smith '702 patent illustrating seal 110 is reproduced below.



As is illustrated in Figure 15, nowhere does Smith teach or suggest a cylindrical wall protector integrally formed with the upper surface at the throughbore; a cylindrical wall protector located between the throughbore and the upper seal wall and extending *substantially* into the upper seal portion; or a cannula receiving opening adapted to mount the seal assembly on the cannula as generally recited by claims 32 and 43.

On the contrary, Smith has an end cap 102 shown above that does not include any sort of integral wall protector. Moreover, Smith does not disclose a wall protector that extends *substantially* into an upper seal portion. Additionally, the Smith disclosure shows a cannula 200 and valve 100 structures that are a single unit. Accordingly, Smith does not disclose any sort of cannula receiving opening adapted to mount the seal assembly on the cannula as set forth by the disclosure.

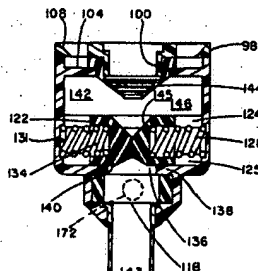
Since Smith fails to teach or suggest each and every element of the claimed invention, Smith fails as an anticipatory reference. Therefore, Applicant respectfully submits that independent claims 32 and 43, and all the claims that depend therefrom are allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the present rejection under 35 U.S.C. § 102(b).

Finally, the Examiner has rejected claims 32-35 and 43-46 as being anticipated by U.S. Patent No. 5,391,153, issued to Haber et al., (hereinafter Haber). Applicant traverses the rejection for at least the following reasons.

As discussed above, claim 32 recites, *inter alia*, that the cylindrical wall protector is integrally formed with the upper surface at the throughbore and is located between the throughbore and upper seal wall extending *substantially* into the upper seal portion; and claim 43 recites, *inter alia*, a cylindrical wall protector located between the throughbore and upper seal wall and extending *substantially* into said upper seal portion.

Applicant asserts that Haber fails as an anticipatory reference because it fails to teach or suggest all of the features of the claimed invention. Specifically, Applicant asserts that Haber fails to teach or suggest a cylindrical wall protector integrally formed with the upper surface at the throughbore and furthermore, fails to teach or suggest that the cylindrical wall protector extends *substantially* into the upper portion of the upper seal portion.

For clarification, the upper portion of Figure 4 of Haber has been reproduced below.



As shown above, Figure 4 of Haber discloses that the locking plate 98 has a hollow cylindrical boss 100 sized to fit within a circular hole formed in the bulkhead 104. Indeed, nowhere does Haber teach or suggest a cylindrical wall protector integrally formed with the upper surface as in

the claimed invention. Furthermore, nowhere does Haber teach or suggest a cylindrical wall protector extending into the upper seal portion. As illustrated above, the cylindrical boss 100 does not extend into the conical seal sealing element 144 but only contacts the upper boundary of the seal element 144. Moreover, Haber does not disclose any sort of cannula receiving opening adapted to mount the seal assembly on the cannula as set forth by the disclosure.

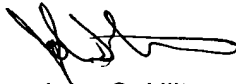
Therefore, Applicant asserts that Haber is insufficient as an anticipatory reference because it fails to teach or suggest all the features of the claimed invention. Therefore, Applicant respectfully submits that independent claims 32 and 43, and all the claims that depend therefrom are allowable. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b).

In view of the fact that none of the art of record, whether considered alone or in any proper combination, discloses or suggests the present invention as defined by the pending claims, and in further view of the above remarks, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

### CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that all of the rejections have been overcome, and that the claims are patentably distinct from the prior art of record and in condition for allowance. The Examiner is respectfully requested to pass the above application to issue, and to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to **Attorney Deposit Account No. 23-11951 (McGuireWoods)**.

Respectfully submitted,



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**Date: October 19, 2005**

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